

1 JOHN L. BURRIS, Esq./ State Bar #69888  
2 BENJAMIN NISENBAUM, Esq./State Bar #222173  
3 LAW OFFICES OF JOHN L. BURRIS  
4 Airport Corporate Centre  
5 7677 Oakport Street, Suite 1120  
6 Oakland, California 94621  
7 Telephone: (510) 839-5200 Facsimile: (510) 839-3882  
8 Email: john.burris@johnburrislaw.com  
9 bnisenbaum@hotmail.com

10 Attorneys for Plaintiffs  
11 KATHLEEN ESPINOSA, et al.

12 UNITED STATES DISTRICT COURT  
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 KATHLEEN ESPINOSA, individually and as  
15 personal representative of the Estate of decedent  
16 ASA SULLIVAN; A.S., by and through his  
17 Guardian ad Litem, NICOLE GUERRA;

18 Plaintiffs,

19 vs.

20 CITY AND COUNTY OF SAN FRANCISCO,  
21 a municipal corporation; HEATHER FONG, in  
22 her capacity as Chief of Police for the CITY  
23 AND COUNTY OF SAN FRANCISCO; JOHN  
24 KEESOR, individually, and in his capacity as a  
25 police officer for the CITY AND COUNTY OF  
26 SAN FRANCISCO; MICHELLE ALVIS,  
27 individually and in her capacity as a police  
28 officer for the CITY AND COUNTY OF SAN  
FRANCISCO; PAUL MORGADO, individually  
and in his capacity as a police officer for the  
CITY AND COUNTY OF SAN FRANCISCO;  
and, San Francisco police officers DOES 1-25,  
inclusive,

Defendants.

Case No. C 06 04686 JSW

**FIRST-AMENDED COMPLAINT FOR  
DAMAGES FOR VIOLATION OF CIVIL  
RIGHTS.  
JURY TRIAL DEMANDED**

INTRODUCTION

1 On the evening of June 6, 2006, Defendant Officers JOHN KEESOR and MICHELLE  
2 ALVIS shot their firearms numerous times and killed Decedent ASA SULLIVAN. Mr. SULLIVAN  
3 was unarmed and had committed no crime. He was in the attic crawlspace attempting to conceal  
4 himself from police officers. Following the unjustifiable killing of Mr. SULLIVAN, Defendant  
5 CITY AND COUNTY OF SAN FRANCISCO, through its police department, wrongfully  
6 disseminated false information to media sources stating that Mr. SULLIVAN possessed a firearm and  
7 had shot at police officers. Using this false information, Defendant CITY AND COUNTY OF SAN  
8 FRANCISCO seemingly manipulated and obtained statements from a member of Mr. SULLIVAN's  
9 family to the effect that Mr. SULLIVAN was suicidal.

10 Defendant CITY AND COUNTY SAN FRANCISCO, through its police department,  
11 subsequently withdrew their false claims. In spite of this public retraction, Defendant CITY AND  
12 COUNTY OF SAN FRANCISCO, through its police department, including Defendant Officer PAUL  
13 MORGADO, in a search warrant affidavit which was available to media sources, claimed that Mr.  
14 SULLIVAN had planned to commit "suicide by cop."

15 The contention by Defendants that Mr. SULLIVAN may have intended to commit "suicide by  
16 cop", as published in the San Francisco Chronicle, is without merit. Mr. SULLIVAN did nothing to  
17 cause police to be called out to his location, hid from police officers when they arrived, and never  
18 threatened them in any manner before they opened fire and killed him. These are not the actions of a  
19 person who intends to commit "suicide by cop." Even if Mr. SULLIVAN was suicidal, there was no  
20 rational basis for police officers to use deadly force against him.

## 21 JURISDICTION

22 1. This action arises under Title 42 of the United States Code, Section 1983. Jurisdiction  
23 is conferred upon this Court by Title 28 of the United States Code, Sections 1331 and 1343. The  
24 unlawful acts and practices alleged herein occurred in the City and County of San Francisco,  
25 California, which is within this judicial district.

## PARTIES

2. Plaintiff herein, KATHLEEN ESPINOZA (“ESPINOZA”), is and was at all times herein mentioned the mother of decedent ASA SULLIVAN and is the personal representative of the Estate of decedent ASA SULLIVAN. Plaintiff ESPINOZA is a citizen of the United States residing in the City of Van Nuys in California.

3. Minor Plaintiff herein, A.S., is and was at all times herein mentioned the son of decedent ASA SULLIVAN. He is represented in this action by his mother and Guardian ad Litem NICOLE GUERRA. He is a citizen of the United States residing in the City of South San Francisco in California.

4. Defendant City and County of San Francisco (“CITY”) is a municipal corporation, duly organized and existing under the laws of the State of California. Under its authority, the City operates the San Francisco Police Department.

5. At all times mentioned herein, Defendant HEATHER FONG (“FONG”) was employed by defendant CITY as Chief of Police for the CITY. She is being sued in her official capacity as Chief of Police for the CITY.

6. At all times mentioned herein, Defendant JOHN KEESOR (“KEESOR”) was employed by Defendant CITY as a police officer. He is being sued individually and in his official capacity as a police officer for the City.

7. At all times mentioned herein, Defendant MICHELLE ALVIS (“ALVIS”) was employed by Defendant CITY as a police officer. She is being sued individually and in her official capacity as a police officer for the City.

8. At all times mentioned herein, Defendant PAUL MORGADO (“MORGADO”) was employed by Defendant CITY as a police officer. He is being sued individually and in his official capacity as a police officer for the City.

9. Plaintiff is ignorant of the true names and capacities of Defendants DOES 1 through 25, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each Defendant so named is responsible in some manner for the

1 injuries and damages sustained by Plaintiffs as set forth herein. Plaintiffs will amend their complaint  
2 to state the names and capacities of DOES 1-25, inclusive, when they have been ascertained.

3 10. In engaging in the conduct described herein, Defendant police officers acted under the  
4 color of law and in the course and scope of their employment with the City. In engaging in the  
5 conduct described herein, Defendant police officers exceeded the authority vested in them as police  
6 officers under the United States and California Constitutions and as police officers employed by  
7 Defendant CITY.

8 11. Plaintiffs are required to comply with an administrative tort claim requirement under  
9 California law. Plaintiffs have complied with all such requirements.

10 STATEMENT OF FACTS

11 12. On the evening of June 6, 2006 several San Francisco police officers arrived at 2  
12 Garces Drive. Two San Francisco Police Officers were observed by a neighbor to be peering through  
13 the windows of the house located at 2 Garces Drive and also looking through bushes near the  
14 residence using their lit flashlights.

15 13. Decedent ASA SULLIVAN lived at the residence along with a friend, Jason Martin.  
16 They moved in recently, in mid-May 2006. Mr. SULLIVAN and Mr. Martin were allowed to live at  
17 the residence by friends who were the leaseholders. Mr. SULLIVAN and Mr. Martin made repairs  
18 to the residence in exchange for being allowed to occupy the premises.

19 14. At approximately 8:40 p.m. on June 6, Mr. SULLIVAN woke Mr. Martin, who  
20 worked the graveyard shift as a security guard and had been asleep in an upstairs room, and told him  
21 that there were police officers outside the residence. At some point shortly afterward, several police  
22 officers banged loudly on Mr. Martin's bedroom door, announced themselves as police officers, and  
23 ordered him to "open up!" It is unknown how the officers gained entry into the residence.

24 15. Mr. Martin complied with the order. When he opened the door, he saw that there were  
25 two uniformed police officers and several police officers who were dressed in plainclothes. Mr.  
26 Martin recognized several of the plainclothes officers as narcotics officers who work out of the  
27 Taraval precinct station house. Mr. Martin was familiar with and recognized the officers from when  
28 he worked at a 7-11 convenience store located near the Taraval station house. The officers did not

1 announce the basis of their call, but Mr. Martin was concerned that so many officers, including  
2 plainclothes officers, were present. Plaintiffs allege that each of these officers, including Defendant  
3 Officers KEESOR, ALVIS, MORGADO and unknown Officers DOES 1 through 10, are responsible  
4 in some manner for the death of Decedent ASA SULLIVAN

5 16. Without explanation, several officers drew their firearms on Mr. Martin and ordered  
6 him to lie face down on the floor. Defendant Officers acted as if they were engaged in a planned law  
7 enforcement action although they presented no warrant of any kind. Mr. Martin complied and lay on  
8 the floor in a prone position. For unknown reasons, one of the Defendant Officers, believed to be a  
9 female officer, then handcuffed Mr. Martin with his hands behind his back. That officer aggressively  
10 jammed her knee in Mr. Martin's back and painfully twisted his arm even though there was no basis  
11 for such aggressive action.

12 17. After the officers handcuffed Mr. Martin, they asked him whether anyone else was  
13 inside the residence. Before Mr. Martin could answer, the cover over the entry to the attic crawlspace  
14 fell down in the bedroom closet. Approximately three of the plainclothes officers responded to the  
15 sound of the fallen attic crawlspace cover by going to the closet. The officers shined their flashlights  
16 up into the attic crawlspace. Plaintiffs allege that the entryway to the attic crawlspace is  
17 approximately 2 feet by 2 feet. One of the male plainclothes officers attempted to enter the attic  
18 crawlspace, but was apparently unable to fit into the entry.

19 18. Mr. SULLIVAN could be heard moving in the attic crawlspace, and Defendant  
20 Officers asked Mr. Martins several times if the person in the attic had any weapons. Mr. Martin  
21 accurately responded each time that he was certain that the person in the attic had no weapons. Mr.  
22 Martin had never known Mr. SULLIVAN to carry or possess weapons. In fact, Defendant Officers  
23 were the only people in the residence who possessed any weapons.

24 19. After officers were unable to get into the crawlspace, they exited the closet and one of  
25 the smaller officers present, believed to be Defendant Officer ALVIS, entered the closet. This was the  
26 same female officer who had aggressively handcuffed Mr. Martin and kneed him in the back after  
27 twisting his arm for no apparent reason. Defendant Officer ALVIS, who was in plainclothes, was  
28 joined in the closet by another plainclothes male Defendant Officer, believed to be Defendant Officer

1 KEESOR. Plaintiffs allege that Defendant Officer ALVIS entered the attic crawlspace followed  
2 shortly thereafter by Defendant Officer KEESOR. Meanwhile, one of the uniformed Defendant  
3 Officers took Mr. Martin's wallet from him.

4 20. Mr. Martin could hear Defendant Officer ALVIS and KEESOR yelling down from the  
5 attic to the remaining Defendant Officers. Defendant Officers ALVIS and KEESOR appeared to  
6 have difficulty locating Mr. SULLIVAN in the attic, and they yelled down to the remaining  
7 Defendant Officers that they could not see the person in the attic.

8 21. After several minutes, the Defendant Officers in the attic announced that they had  
9 located the person, who they said was lying down and trying to hide under the cover of wooden  
10 beams and insulation. Eventually Mr. SULLIVAN could be heard yelling at the officers in an  
11 agitated tone that he had not done anything and pleading for the officers to leave him alone.

12 22. Defendant Officers ordered Mr. SULLIVAN to come down out of the attic. Some  
13 Defendant Officers discussed having a police K-9 (dog) unit come to the scene, and stated that a K-9  
14 unit was en route to the scene from downtown San Francisco. Mr. Martin yelled to Mr. SULLIVAN  
15 to come down from the attic, that he was only making matters worse, and that a police dog was  
16 coming to the scene. Defendant Officers immediately ordered Mr. Martin to be quiet, and he  
17 complied with the order.

18 23. One of the Defendant Officers was looking through Mr. Martin's personal possessions.  
19 Mr. Martin asked why the officer was doing so and why the officers were present, but Defendant  
20 Officers ignored him.

21 24. While the Defendant Officers were in the attic, they relayed Mr. SULLIVAN's  
22 position to the remaining Defendant Officers in the room. Some of the Defendant Officers who  
23 remained below attempted to locate Mr. SULLIVAN's position in the attic above them by using  
24 Defendant Officers KEESOR and ALVIS's instructions and also by tapping the ceiling with their  
25 batons. Defendant Officers KEESOR and ALVIS seemed to use the audible sound of the officers  
26 tapping on the ceiling to more specifically direct them toward Mr. SULLIVAN. At one point,  
27 officers tapped on the ceiling, yielded a solid sound, and the officers in the attic told them "That's  
28

1 us.” They further directed the officers below toward Mr. SULLIVAN. Eventually one of the  
2 Defendant Officers yelled out to the effect “He’s over the bathroom!”

3 25. One of the Defendant Officers dressed in plainclothes then went into the bathroom and  
4 tapped on the ceiling with his nightstick. Suddenly, in apparent response to the tapping on the  
5 bathroom ceiling, several gunshots were fired in the attic. There was no audible verbal  
6 communication from the officers in the attic after the plainclothes officer went to the bathroom and  
7 the time gunshots were fired, other than the plainclothes officer in the bathroom tapping the bathroom  
8 ceiling with his nightstick.

9 26. The plainclothes Defendant Officer in the bathroom ran back into Mr. Martin’s room  
10 where other Defendant Officers were located and stated “He shot at me.” In fact, Defendant Officers  
11 KEESOR and ALVIS were the only people in the attic who possessed firearms. Plaintiffs allege that  
12 Defendant Officers KEESOR and ALVIS both shot and killed decedent SULLIVAN, and that  
13 Defendant KEESOR also injured Defendant ALVIS when a bullet he fired at Mr. SULLIVAN grazed  
14 Defendant ALVIS. One of the shots fired by Defendants KEESOR and ALVIS went through the  
15 attic floor and into the bathroom where the plainclothes Defendant Officer had tapped on the ceiling.

16 27. As noted, Defendant CITY AND COUNTY OF SAN FRANCISCO, by and through  
17 members of its police department, has made different claims concerning the events that led to the  
18 shooting of Mr. SULLIVAN. First they claimed that Mr. SULLIVAN had a gun and shot through the  
19 ceiling at police officers. This was an outright falsehood. Then Defendant CITY AND COUNTY  
20 OF SAN FRANCISCO, through members of its police department, claimed that Mr. SULLIVAN  
21 pointed an eyeglass case at officers in the attic. Mr. SULLIVAN who wore glasses, was not known  
22 to carry an eyeglass case and his glasses were generally observed to either be worn on his face or  
23 casually placed in some location, but never to anyone’s knowledge who was familiar with him did he  
24 store them in an eyeglass case.

25 28. Defendants, through members of the SAN FRANCISCO Police Department, have  
26 since contended that Mr. SULLIVAN told the officers in the attic that he would rather die than go  
27 back to jail before allegedly pointing an eyeglasses case at them. Even if Mr. SULLIVAN made such  
28



1 a statement, it is more likely a figure of speech than a plea for Defendant Officers KEESOR and  
2 ALVIS to kill him. If he did make such a statement, it was not audible to people below the attic.

3 29. Plaintiffs allege that any contention Mr. SULLIVAN intentionally provoked and  
4 threatened Defendant Officers KEESOR and ALVIS into shooting him is not supported by any  
5 reasonable interpretation of the facts as presented herein. That such a contention by Defendants has  
6 been made public has only added to the level of grief and distress felt by Plaintiffs.

7 30. Plaintiffs allege that Defendant CITY AND COUNTY OF SAN FRANCISCO, by  
8 and through members of its police department, subsequently obtained private information regarding  
9 Decedent from a family member by providing false information. That false information consisted of  
10 the initial claim that Mr. SULLIVAN possessed a gun in the attic and fired it for no explicable reason  
11 at officers in a room below him. Plaintiffs allege that Defendant Officers were in a position to  
12 immediately verify whether Mr. SULLIVAN possessed any weapon. He did not, and they should  
13 have known that he possessed no weapon. Even after Defendant CITY, by and through members of  
14 its Police Department, disavowed their initial false claim that Mr. SULLIVAN possessed a weapon,  
15 the wrongfully obtained private information has been used to perpetrate a clearly false contention that  
16 Mr. SULLIVAN's death was the result of his alleged intention to commit "suicide by cop." Plaintiffs  
17 allege that this private information has been used in an attempt by Defendant CITY, by and through  
18 members of its police department, to obtain Mr. SULLIVAN's medical records. In sum, this activity  
19 by Defendant CITY, through members of its police department, following Mr. SULLIVAN's death,  
20 rises to a conscience-shocking level of intentional infliction of emotional distress and trauma upon  
21 Mr. SULLIVAN's surviving family-members and loved ones.

22 31. Plaintiffs allege that Mr. SULLIVAN's death was the result of excessive force used  
23 against him by defendant officers.

24 32. Plaintiffs further allege that Mr. SULLIVAN's death was the proximate result of  
25 Defendant CITY's failure to reasonably train their police officers in the proper and reasonable use of  
26 force and the making of investigations. Plaintiffs further allege that these substantial failures reflect  
27 Defendant CITY's policies implicitly ratifying and/or authorizing the use of excessive force by its  
28



1 police officers and the failure to reasonably train police officers employed by Defendant CITY in the  
2 making of investigations.

3 33. The killing of decedent ASA SULLIVAN described herein was brutal, malicious, and  
4 done without just provocation or cause, proximately causing Plaintiffs' injuries and resulting  
5 damages.

#### 6 DAMAGES

7 34. Plaintiffs were physically, mentally, emotionally and financially injured and damaged  
8 as a proximate result of Mr. SULLIVAN's wrongful death, including, but not limited to, the loss of  
9 decedent's familial relationships, comfort, protection, companionship, love, affection, solace, and  
10 moral support. In addition to these damages, Plaintiffs are entitled to recover for the reasonable value  
11 of funeral and burial expenses.

12 35. Plaintiffs are entitled to recover wrongful death damages pursuant to C.C.P. Sections  
13 377.60 and 377.61 and Probate Code Section 6402(b). Additionally, Plaintiffs are entitled to the  
14 reasonable value of funeral and burial expenses pursuant to C.C.P. Sections 377.60 and 377.61.

15 36. Pursuant to C.C.P. Sections 377.30, 377.32, and 377.34, plaintiffs are further entitled to  
16 recover for damages incurred by decedent before he died as the result of being assaulted and battered,  
17 for deprivation without due process of decedent's right to life, and to any penalties or punitive  
18 damages to which decedent would have been entitled to recover, had he lived. These damages do not  
19 include damages incurred by decedent consisting of pain, suffering, and disfigurement prior to  
20 decedent's death.

21 37. As a further direct and proximate result of the negligence, excessive force and  
22 deliberate indifference of defendants, and each of them, Plaintiffs have been deprived of Mr.  
23 SULLIVAN's financial support.

24 38. The conduct of the defendant officers was malicious, wanton, and oppressive.  
25 Plaintiffs, as decedent's successors in interest, are therefore entitled to an award of punitive damages  
26 against said individual defendants.

27 39. Plaintiffs found it necessary to engage the services of private counsel to vindicate their  
28 rights, and the rights of decedent, under the law. Plaintiffs are therefore entitled to recover all

attorneys' fees incurred in relation to this action pursuant to Title 42 United States Code section 1988.

FIRST CAUSE OF ACTION  
(Wrongful Death 42 U.S.C. Section 1983)

40. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through 39 of this Complaint.

41. Defendants acted under color of law by shooting and killing decedent without lawful justification and subjecting decedent to excessive force thereby depriving Plaintiffs and the decedent of certain constitutionally protected rights, including, but not limited to:

- a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution;
- b. The right not to be deprived of life or liberty without due process of law, as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution;
- c. The right to be free from the use of excessive force by police officers, which is guaranteed by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution;
- d. The right to equal protection of the laws, as guaranteed by the Fourteenth Amendment to the United States Constitution; and/or,
- e. The right to be free from interference within the zone of privacy, as protected by the Fourth and Ninth Amendments to the United States Constitution;

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

SECOND CAUSE OF ACTION

(Violations of Plaintiffs' civil rights to familial relationship - 42 U.S.C. section 1983)

43. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through 42 of this Complaint.

44. Defendants, acting under color of state law, and without due process of law deprived Plaintiffs of their right to a familial relationship by seizing decedent by use of unreasonable, unjustified and deadly force and violence, causing injuries which resulted in decedent's death, all without provocation and did attempt to conceal their excessive use of force and hide the true cause of decedent's demise to deprive Plaintiffs of their right to seek redress, all in violation of rights, privileges, and immunities secured by the First, Fourth, and Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

THIRD CAUSE OF ACTION  
(*Monell* - 42 U.S.C. section 1983)

45. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through 44 of this Complaint.

46. Plaintiffs are informed and believe and thereon allege that high ranking CITY AND COUNTY OF SAN FRANCISCO officials, including high ranking police supervisors such as Defendant FONG, DOES 11 through 25, and/or each of them, knew and/or reasonably should have known about repeated acts of misconduct by Defendant Officers KEESOR, ALVIS, MORGADO and DOES 1-10, and/or each of them.

47. Despite having such notice, Plaintiffs are informed and believe and thereon allege that Defendants FONG, DOES 11-25, and/or each of them, approved, ratified, condoned, encouraged,

1 sought to cover up, and/or tacitly authorized the continuing pattern and practice of misconduct and/or  
2 civil rights violations by said officers.

3 48. Plaintiffs are further informed and believe and thereon allege that as a result of the  
4 deliberate indifference, reckless and/or conscious disregard of the misconduct by Defendants  
5 KEESOR, ALVIS, MORGADO and DOES 1-10, and/or each of them, Defendant FONG, DOES 11-  
6 25, and/or each of them, encouraged these officers to continue their course of misconduct and caused  
7 these officers' lack of training, resulting in the violation of the Plaintiffs' rights as alleged herein.  
8

9 49. The aforementioned acts and/or omissions and/or deliberate indifference by high  
10 ranking CITY AND COUNTY OF SAN FRANCISCO officials, including high ranking CITY AND  
11 COUNTY OF SAN FRANCISCO Police Department supervisors, Defendants FONG, DOES 11-25,  
12 and each of them resulted in the deprivation of Plaintiffs' constitutional rights including, but not  
13 limited to, the following:  
14

- 15
- 16
- 17 a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth  
18 and Fourteenth Amendments to the United States Constitution;
- 19 b. The right not to be deprived of life or liberty without due process of law, as guaranteed by  
20 the Fifth and Fourteenth Amendments to the United States Constitution;
- 21 c. The right to be free from the use of excessive force by police officers, which is  
22 guaranteed by the Fourth, Fifth, and Fourteenth Amendments to the United States  
23 Constitution;
- 24 d. The right to equal protection of the laws, as guaranteed by the Fourteenth Amendment to  
25 the United States Constitution; and/or,  
26  
27  
28

1 e. The right to be free from interference within the zone of privacy, as protected by the  
2 Fourth and Ninth Amendments to the United States Constitution;

3 50. Said rights are substantive guarantees under the Fourth and/or Fourteenth  
4 Amendments to the United States Constitution.  
5

6 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.  
7

8 **FOURTH CAUSE OF ACTION**  
9 (Survival action: Violation of decedent's civil rights  
10 42 U.S.C. section 1983)  
11 (Plaintiff ESPINOZA as personal representative of decedent)

12 51. Plaintiffs hereby reallege and incorporate by reference herein paragraphs 1 through 50  
13 of this Complaint.

14 52. The foregoing claim for relief arose in decedent's favor, and decedent would have  
15 been the Plaintiff with respect to this claim if he had lived.

16 53. Defendants acted under color of law in shooting and killing decedent without lawful  
17 justification and subjecting decedent to excessive force, thereby depriving Plaintiffs and the decedent  
18 of certain constitutionally protected rights, including, but not limited to:  
19

- 20 a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth  
21 and Fourteenth Amendments to the United States Constitution;
- 22 b. The right not to be deprived of life or liberty without due process of law, as guaranteed by  
23 the Fifth and Fourteenth Amendments to the United States Constitution;
- 24 c. The right to be free from the use of excessive force by police officers, which is guaranteed  
25 by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution;
- 26 d. The right to equal protection of the laws, as guaranteed by the Fourteenth Amendment to  
27 the United States Constitution; and/or,  
28

1 e. The right to be free from interference within the zone of privacy, as protected by the  
2 Fourth and Ninth Amendments to the United States Constitution.

3 54. Said rights are substantive guarantees under the Fourth and/or Fourteenth  
4 Amendments to the United States Constitution.  
5

6 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

7 FIFTH CAUSE OF ACTION  
8 (C.C.P. Section 377.60 and 377.61)  
9 Wrongful Death- Negligence  
(Plaintiff A.S., by and through his Guardian ad Litem, NICOLE GUERRA)

10 55. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 54 of this  
11 Complaint, except for any and all allegations of intentional, malicious, extreme, outrageous, wanton,  
12 and oppressive conduct by defendants, and any and all allegations requesting punitive damages.  
13

14 56. Defendants CITY, by and through its agents and employees, Defendant Officers  
15 KEESOR, ALVIS, MORGADO, and DOES 1-10, negligent actions and/or negligent failure to act,  
16 as set forth herein-above proximately caused the death of decedent ASA SULLIVAN, said plaintiff's  
17 father, on June 6, 2006.  
18

19 57. As an actual and proximate result of said defendants' negligence, and the death of  
20 decedent, plaintiff has sustained pecuniary loss resulting from the loss of comfort, society, attention,  
21 services, and support of his father, decedent, in an amount according to proof at trial.

22 58. As a further actual and proximate result of said defendant's negligence, plaintiff has  
23 incurred funeral and burial expenses, in an amount according to proof at trial.  
24

25 59. Pursuant to California C.C.P. Sections 377.60 and 377.61, plaintiff has brought this  
26 action, and claims damages from said defendants for the wrongful death of decedent, and the  
27 resulting injuries and damages.  
28

WHEREFORE, plaintiff prays for relief as hereinafter set forth.

SIXTH CAUSE OF ACTION  
(Violation of Civil Code Section 51.7)

(Against defendants KEESOR, ALVIS, MORGADO, and DOES 1-10)

60. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 59 of this complaint.

61. Plaintiffs are informed and believe and thereon allege that the conduct of defendants KEESOR, ALVIS, MORGADO, and DOES 1-10, inclusive, as described herein, was motivated by racial prejudice against plaintiffs' decedent. Plaintiffs' decedent is and was readily recognizable as African-American. In engaging in such conduct, defendants violated plaintiffs' decedent's rights under California Civil Code Section 51.7 to be free from violence, or intimidation by threat of violence committed against him because of his race.

62. Under the provisions of California Civil Code Section 52(b), defendants are liable an additional \$25,000.00 for each violation of Civil Code Section 51.7 for punitive damages and for reasonable attorney's fees.

63. As a proximate result of defendants' wrongful conduct, plaintiffs suffered damages as hereinafter set forth.

WHEREFORE, plaintiffs pray for relief as hereinafter set forth.

SEVENTH CAUSE OF ACTION  
(Violation of Civil Code Section 52.1)

(Against Defendants KEESOR, ALVIS, MORGADO, and DOES 1-10)

64. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 63 of this Complaint.

65. The conduct of Defendants KEESOR, ALVIS, MORGADO, and DOES 1-10, inclusive, as described herein, acting in the course and scope of their employment for Defendant CITY, violated California Civil Code Section 52.1, in that through the wrongful assault and battery and killing of



1 plaintiffs' decedent they interfered with plaintiffs' decedent's exercise and enjoyment of his civil  
2 rights.

3 66. As a direct and proximate result of defendants' violation of Civil Code Section 52.1,  
4 decedent suffered violation of his constitutional rights, and suffered damages as set forth herein.  
5

6 67. Since this conduct occurred in the course and scope of their employment, defendant  
7 CITY is therefore liable to plaintiffs pursuant to respondeat superior.

8 68. Plaintiffs are entitled to injunctive relief and an award of their reasonable attorney's fees  
9 pursuant to Civil Code Section 52.1(h).  
10

11 WHEREFORE, plaintiffs pray for relief, as hereinafter set forth.

12 EIGHTH CAUSE OF ACTION

13 (Assault and Battery)

14 (Against defendants KEESOR, ALVIS, MORGADO, and DOES 1-10)

15 69. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 68 of this  
16 Complaint.

17 70. Defendants KEESOR, ALVIS, MORGADO, and DOES 1-10, inclusive, placed  
18 plaintiffs' decedent in immediate fear of death and severe bodily harm by shooting him without any  
19 just provocation or cause.

20 71. These defendants' conduct was neither privileged nor justified under statute or common  
21 law.  
22

23 NINTH CAUSE OF ACTION

24 (Negligent Hiring, Retention, Training, Supervision, and Discipline)

25 (Against Defendant CITY, FONG, and DOES 11-25)

26 72. Plaintiffs reallege and incorporate by reference herein paragraphs 1 through 71 of this  
27 Complaint, except for any and all allegations of intentional, malicious, extreme, outrageous, wanton,  
28 and oppressive conduct by defendants, and any and all allegations requesting punitive damages.

WHEREFORE, plaintiffs pray for relief as hereinafter set forth.

75      Plaintiffs hereby demand a jury trial in this action.

PRAYER

WHEREFORE, Plaintiffs pray for relief, as follows:

1. For general damages in a sum of \$10,000,000.00;
2. For special damages in a sum according to proof;
3. For punitive damages in a sum according to proof;
4. For reasonable attorney's fees pursuant to 42 U.S.C. Section 1988;
5. For injunctive relief;
6. For cost of suit herein incurred; and
7. For such other and further relief as the Court deems just and proper.

Dated: January 12, 2007

**The Law Offices of John L. Burris**

/s/ John L. Burris

John L. Burris

Attorney for Plaintiff